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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			QUADER, FAZLUL	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/572,743	Applicant(s) KIKKOJI ET AL.	
	Examiner FAZLUL QUADER	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 1-19 *are* pending in this application.
2. Examiner acknowledges applicant's amendment on 11/28/2008.
3. Claims 1-3, 8-10, 17-19 have been amended on 11/28/2008.
4. Applicant's arguments filed 11/28/2008, with respect to claims 1-19 have been fully considered but they are not persuasive, for examiner's response see discussion below.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
7. With respect to claim 1, line 2 recites a communication apparatus that retrieves contents and "transmits the retrieved contents". Transmission according to the

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specification (page 16, 3rd paragraph) may be an electromagnetic signal. This subject matter is not limited to that which falls within a statutory category of invention because it is not limited to a process, machine, manufacture, or a composition of matter. Instead, it includes a form of energy. Energy does not fall within a statutory category since it is clearly not a series of steps or acts to constitute a process, not a mechanical device or combination of mechanical devices to constitute a machine, not a tangible physical article or object which is some form of matter to be a product and constitute a manufacture, and not a composition of two or more substances to constitute a composition of matter. The claims 2-8 are also rejected for being dependent upon claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-18 of the present application (effective filing date: Nov. 16, 2005) are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikuchi et al. (US 20020010740; pub. date: Jan. 24, 2002), hereinafter "Kikuchi", in view of Asahi et al. (US 20020114455; pub. date: Aug. 22, 2002), hereinafter "Asahi" and further in view of Okada et al. (US 6560404; filing date: Oct. 20, 2000), hereinafter "Okada".

10. As to claim 1, Kikuchi discloses, a communication apparatus that retrieves contents and transmits the received contents comprising:

A processor (Kikuchi: [0089], CPU);

reception means for receiving a retrieval keyword used to request contents from an external device (Kikuchi: [0086], lines 1-4); retrieval means for retrieving contents from a database based on the retrieval keyword received by the reception means (Kikuchi: [0085], lines 18-22);

page information generation means for generating page information to be displayed on the external device including list information of contents retrieved by the retrieval means (Kikuchi: abs., lines 1-2), and transmission means for transmitting the page information generated by the page information generation means to the external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11).

Kikuchi, however, does not explicitly disclose, “appending notification information” and “consecutively reproduced audibly and/or visually part of the retrieved contents included in the list information”.

Asahi, on the other hand, discloses appending notification information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Asahi: [0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving images); Okada further recites displaying the list of audio/ video files to be reproduced (Okada: fig. 77A-B; col. 10, lines 32-37).

Kikuchi and Asahi and Okada are of the same field of endeavor, they specifically teach distribution, display and reproduction of digital content (Kikuchi: abs., lines 2-3; Asahi: [0007], lines 1-9; Okada: abstract).

It would have been obvious to one of the ordinary skill in the art at the time of applicant’s invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

11. As to claim 8, Kikuchi discloses, a communication method for retrieving contents and providing thus retrieved contents (Kikuchi: [0086], lines 1-4), comprising:

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receiving a retrieval keyword that requests contents from an external device;
retrieving contents from a database based on the received retrieval keyword (Kikuchi:
[0085], lines 18-22);

generating page information to be displayed on the external device including list
information of retrieved contents (Kikuchi: abs., lines 1-2), and transmitting the
generated page information to the external device (Kikuchi: abs., lines 2-3; [0013], lines
1-11).

Kikuchi, however, does not explicitly disclose, “appending notification
information” and “consecutively reproduce audibly and/or visually part of the received
contents”.

Asahi, on the other hand, discloses appending notification information that
displays whether or not the page information is provided with a consecutive
reproduction function of making the external device consecutively reproduce part of
contents included in the list information respectively to the page information (Asahi:
[0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving
images); Okada further recites displaying the list of audio/ video files to be reproduced
(Okada: fig. 77A-B; col. 10, lines 32-37).

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It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

12. As to claim 9, Kikuchi discloses, a communication program that makes a computer execute the processing of retrieving contents and providing thus retrieved contents (Kikuchi: [0086], lines 1-4), the computer executing the processing comprising: receiving a retrieval keyword that requests contents from an external device; retrieving contents from a database based on the received retrieval keyword (Kikuchi: [0085], lines 18-22);

generating page information to be displayed on the external device including list information of retrieved contents (Kikuchi: abs., lines 1-2), and transmitting the generated page information to the external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11)

Kikuchi, however, does not explicitly disclose, “appending notification information” and “consecutive reproduction function of making the external device consecutively reproduce audibly and /or visually part of the retrieved contents”.

Asahi, on the other hand, discloses appending notification information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Asahi: [0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving images); Okada further recites displaying the list of audio/ video files to be reproduced (Okada: fig. 77A-B; col. 10, lines 32-37).

Kikuchi and Asahi and Okada are of the same field of endeavor, they specifically teach distribution, display and reproduction of digital content (Kikuchi: abs., lines 2-3; Asahi: [0007], lines 1-9; Okada: abstract).

It would have been obvious to one of the ordinary skill in the art at the time of applicant’s invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

13. As to claim 2, Kikuchi as modified discloses, the communication apparatus according to claim 1, wherein, during a period of time when respective items in the list information are selected in turn, and part of contents related to the selected items is transmitted to the external device for reproduction respectively (Kikuchi: [0012], lines 1-5), the page information generation means appends notification information displaying that the part of contents is being consecutively reproduced respectively to the page information (Kikuchi: [0011], lines 1-10; [0012], lines 1-5; [0013], lines 1-11).

14. As to claim 3, Kikuchi as modified discloses, the communication apparatus according to claim 1, wherein, when transmitting all items in the list information to the external device for reproduction is completed, the page information generation means appends notification information displaying that the consecutive reproduction is completed to the page information (Kikuchi: [0013], lines 1-11; [0181], lines 1-9);

15. As to claim 4, the claim is rejected for the same reason as claim 1. In addition, Kikuchi as modified discloses, the communication apparatus according to claim 1, wherein, in case the page information displaying the list information of contents including those retrieved by the retrieval means is generated (Kikuchi: [0013], lines 1-5).

16. As to claim 5, Kikuchi as modified discloses, the communication apparatus according to claim 1, wherein, in case the page information displaying a table of the list

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information is generated as the retrieval result of the retrieval means, the page information generation means appends information that displays whether or not the list information in the table is provided with the consecutive reproduction function respectively (Kikuchi: [0148], lines 1-11).

17. As to claim 6, the claim is rejected for the same reason as claim 1. In addition, Kikuchi as modified discloses, the external device display a notification indication corresponding to the identification information (Kikuchi: [00138], lines 1-5, “prompt message”).

18. As to claim 7, Kikuchi as modified discloses, the communication apparatus according to claim 1, wherein the contents are tunes ([0087], lines 24-25, “music data”), and, at the time of carrying out the consecutive reproduction function, audio data corresponding to part of the contents is consecutively transmitted to the external device (Kikuchi: [0087], lines 1-28).

19. As to claim 10, Kikuchi discloses, a communication apparatus, comprising:

list information request information transmission means for transmitting request information requesting list information of contents to an external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11);

page information reception means for receiving page information to be displayed on the external device including the list information of contents and notification information indicating that part of respective contents (Kikuchi: [0086], lines 1-4) included in the list information can be consecutively reproduced, which are transferred from the external device in answer to the request information requesting the list information (Kikuchi: abs., lines 2-3; [0013], lines 1-11);

output means for outputting the page information including the list information of contents and the information indicating that the consecutive reproduction is possible (Kikuchi: fig. 3, #72, #73, [0037]; [0087]);

consecutive reproduction request information transmission means for transmitting request information that requests consecutively reproducing part of respective contents included in the list information to the external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11); and

reproduction means for sequentially receiving and reproducing data of part of respective contents included in the list information, which is transferred from the external device in answer to the request information requesting the consecutive reproduction (Kikuchi: abs., lines 2-3; [0013], lines 1-11).

Kikuchi, however, does not explicitly disclose, “consecutively reproduced audibly and /or visually”.

Asahi, on the other hand, discloses appending notification information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Asahi: [0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving images); Okada further recites displaying the list of audio/ video files to be reproduced (Okada: fig. 77A-B; col. 10, lines 32-37).

Kikuchi and Asahi and Okada are of the same field of endeavor, they specifically teach distribution, display and reproduction of digital content (Kikuchi: abs., lines 2-3; Asahi: [0007], lines 1-9; Okada: abstract).

It would have been obvious to one of the ordinary skill in the art at the time of applicant’s invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

20. As to claim 11, Kikuchi as modified discloses, the communication apparatus

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according to claim 10, wherein the consecutive reproduction request information transmission means transmits request information requesting part of currently selected contents to the external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11).

21. As to claim 12, Kikuchi as modified discloses, the communication apparatus according to claim 10, wherein the reproduction means sequentially receives and reproduces streaming data of part of respective contents included in the list information, which is transferred from the external device in answer to the request information requesting the consecutive reproduction (Kikuchi: [0227]).

22. As to claim 13, Kikuchi as modified discloses, the communication apparatus according to claim 10, further comprising retrieval keyword transmission means for transmitting a retrieval keyword that requests contents to an external device (Kikuchi: [0144], "keywords"),

wherein the page information reception means receives page information including a table of list information retrieved by the retrieval keyword and information that indicates whether or not each list information in the table is provided with the consecutive reproduction function respectively (Kikuchi: [0046]), and

the output means outputs the page information including the table of list information and the information that indicates whether or not each list information in the

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table is provided with the consecutive reproduction function respectively (Kikuchi: [0046]).

23. As to claim 14, Kikuchi as modified discloses, the communication apparatus (fig. 1; [0086]) according to claim 10, wherein, during a period of time when the data of part of respective contents is reproduced by the reproduction means, the output means outputs information indicating that the data of part of respective contents is being consecutively reproduced (Kikuchi: fig. 3, #72, #73, [0037]; [0087]);

24. As to claim 15, Kikuchi as modified discloses, the communication apparatus according to claim 14, wherein, when reproducing the data of part of respective contents by the reproduction means is completed, the output means outputs information indicating that the consecutive reproduction is completed (Kikuchi: [0121]).

25. As to claim 16, Kikuchi as modified discloses, the communication apparatus according to claim 15, wherein, after outputting the information indicating that the consecutive reproduction is completed for a predetermined period of time, the output means re-outputs the information indicating that the consecutive reproduction is possible (Kikuchi: [0176]).

26. As to claim 17, Kikuchi discloses, a communication method (Kikuchi: [0086]), comprising:

transmitting request information requesting list information of contents to an external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11);

receiving page information to be displayed on to the external device including the list information of contents and notification information indicating that part of respective contents included in the list information can be consecutively reproduced audibly and /or visually (Kikuchi: [0086], lines 1-4), which are transferred from the external device in answer to the request information requesting the list information (Kikuchi: abs., lines 2-3; [0013], lines 1-11);

outputting the page information including the list information of contents and the notification information indicating that the consecutive reproduction is possible (Kikuchi: fig. 3, #72, #73, [0037]; [0087]);

transmitting request information that requests consecutively reproducing part of respective contents included in the list information to the external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11); and

sequentially receiving and reproducing data of part of respective contents included in the list information, which is transferred from the external device in answer

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to the request information requesting the consecutive reproduction (Kikuchi: abs., lines 2-3; [0013], lines 1-11).

Kikuchi, however, does not explicitly disclose, “consecutive reproduction function”.

Asahi, on the other hand, discloses appending notification information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Asahi: [0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving images); Okada further recites displaying the list of audio/ video files to be reproduced (Okada: fig. 77A-B; col. 10, lines 32-37).

Kikuchi and Asahi and Okada are of the same field of endeavor, they specifically teach distribution, display and reproduction of digital content (Kikuchi: abs., lines 2-3; Asahi: [0007], lines 1-9; Okada: abstract).

It would have been obvious to one of the ordinary skill in the art at the time of applicant’s invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to

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successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

27. As to claim 18, Kikuchi discloses, a computer readable storage medium encoded with instructions which when executed by a computer cause a processor to execute a method for communication processing (Kikuchi: [0086]), the method comprising:

transmitting request information requesting list information of contents to an external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11);

receiving page information to be displayed on the external device including the list information of contents and notification information indicating that part of respective contents included in the list information can be consecutively reproduced audible/ and or visually (Kikuchi: [0086], lines 1-4), which are transferred from the external device in answer to the request information requesting the list information (Kikuchi: abs., lines 2-3; [0013], lines 1-11);

outputting the page information including the list information of contents and the information indicating that the consecutive reproduction is possible (Kikuchi: fig. 3, #72, #73, [0037]; [0087]);

transmitting request information that requests consecutively reproducing part of respective contents included in the list information to the external device (Kikuchi: abs., lines 2-3; [0013], lines 1-11); and

sequentially receiving and reproducing data of part of respective contents included in the list information, which is transferred from the external device in answer to the request information requests the consecutive reproduction (Kikuchi: abs., lines 2-3; [0013], lines 1-11).

Kikuchi, however, does not explicitly disclose, “consecutive reproduction function”.

Asahi, on the other hand, discloses appending notification information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Asahi: [0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving images); Okada further recites displaying the list of audio/ video files to be reproduced (Okada: fig. 77A-B; col. 10, lines 32-37).

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It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

28. As to claim 19, Kikuchi discloses, a communication apparatus that retrieves contents and provides thus retrieved contents (Kikuchi: [0086]), comprising:

a reception unit configured to receive a retrieval keyword that requests contents from an external device (Kikuchi: [0086], lines 1-4);

a retrieval unit configured to retrieve contents from a database based on the retrieval keyword received by the reception unit (Kikuchi: [0085], lines 18-22);

a page information generation unit configured to generate page information to be displayed on the external device including list information of contents retrieved by the retrieval unit, and appending notification information that displays whether or not the

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page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Kikuchi: abs., lines 2-3; [0013], lines 1-11); and

a transmission unit configured to transmit the page information generated by the page information generation unit to the external device.

Kikuchi, however, does not explicitly disclose, “appending notification information” and “consecutively reproduce audible and /or visually part of the retrieved contents”.

Asahi, on the other hand, discloses appending notification information that displays whether or not the page information is provided with a consecutive reproduction function of making the external device consecutively reproduce part of contents included in the list information respectively to the page information (Asahi: [0027], lines 1-17, “successive copy”; [0003], digital content includes music and moving images); Okada further recites displaying the list of audio/ video files to be reproduced (Okada: fig. 77A-B; col. 10, lines 32-37).

Kikuchi and Asahi and Okada are of the same field of endeavor, they specifically teach distribution, display and reproduction of digital content (Kikuchi: abs., lines 2-3; Asahi: [0007], lines 1-9; Okada: abstract).

It would have been obvious to one of the ordinary skill in the art at the time of applicant's invention to incorporate the teachings of Asahi and Okada into Kikuchi of content distribution system and method that would have allowed users of Kikuchi to successively copy encoded digital content (Asahi: [0027], lines 5-6; Okada: col. 3, lines 22-26).

Prior art made of record

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ukita et al. (US 20020064096) teach reproduction apparatus and reproduction method.

Lida (US 20010044838) teaches information distribution method

Leem (US 20040044473) teaches on demand contents providing method and system.

Abe et al. (US 20020123990) teach apparatus and method for processing information, information system, and storage medium.

Contact Information

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FAZLUL QUADER whose telephone number is (571)270-1905. The examiner can normally be reached on M-F 8-5 Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on 571-272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FAZLUL QUADER
Examiner
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/Charles Rones/

Supervisory Patent Examiner, Art Unit 2164